



California Regional Water Quality Control Board

San Diego Region



Linda S. Adams
Secretary for
Environmental Protection

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<http://www.waterboards.ca.gov/sandiego>

March 16, 2010

Certified Mail – Return Receipt Requested
Article Number: 7008 1140 0002 4060 7194

Allen Jones
H.G. Fenton Company
7588 Metropolitan Drive
San Diego, CA 92108-4401

In reply refer to:
225207: mporter

Subject: Response to the Year 2 monitoring report for **Fox-Miller Property Project**, Certification No. 04C-028.

Dear Mr. Jones:

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), issued a Clean Water Act Water Quality Certification for the Fox-Miller Property Project, 04C-028, on May 14, 2004. The project is located adjacent north of Palomar Airport Road, east of El Camino Real, and between Faraday Avenue and College Boulevard in the city of Carlsbad, California.

Project Description

The project is the subdivision and grading of a 53.65 acre parcel into a five lot industrial subdivision with an open space lot and a road. The project also includes the installation of sewer and storm drains. As proposed in the application, the project temporarily impacts 0.02 acre, 279 linear feet of streambed and permanently impacts 0.017 acre, 2,350 linear feet of streambed and 0.03 acre, 105 linear feet of wetland. Required mitigation consists of the creation of 0.3 acre of wetland and the preservation of 0.02 acre of streambed.

A. The Regional Board has reviewed the annual mitigation monitoring report and has the following comments:

1. The mitigation site is currently meeting all success criteria.
2. The monitoring report indicates changes to the mitigation plan from what was originally certified. Please note that such changes require that you submit a formal request for a Certification amendment.
 - **Required mitigation consists of creation of 0.3 acre of wetland habitat and the preservation of 0.02 acre of streambed. The annual monitoring reports states that the installed creation area is approximately 0.27 acre. Please provide explanation for why the**

California Environmental Protection Agency

completed installation is less than what was required by the Certification.

B. The Regional Board has reviewed the project file and finds that the project is:

- IN COMPLIANCE with the conditions of the Certification,
 NOT IN COMPLIANCE with the conditions of the Certification for the following reasons;

1. A draft/final preservation mechanism was not submitted. (Condition C.3.)
2. Notification for commencement of construction activities was not submitted. (Condition B.3.)
3. An annual mitigation monitoring report was not submitted for Year 1. (Condition C.8.)
4. Mitigation acreage completed is different than mitigation acreage proposed. (Condition C.1.)

Failure to comply with all conditions of this Certification may subject you to enforcement actions by the California Regional Water Quality Control Board, San Diego Region, including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$5,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

Please provide a written response to the Regional Board by April 15, 2010 describing how the applicant has or will resolve the above compliance issues. Your response will be reviewed to determine if appropriate measures have been taken to address the violations noted and to assess the need for further enforcement action.

In the subject line of any response, please include the requested "In reply refer to:" information located in the heading of this letter. For questions pertaining to the subject matter, please contact Mike Porter at (858) 467-2726 or mporter@waterboards.ca.gov.

Respectfully,



CHIARA CLEMENTE
Senior Environmental Scientist

Cc: Shelby Howard
HELIX Environmental Planning, Inc.
7578 El Cajon Blvd, Ste. 200
La Mesa, CA 91942

Tech Staff Info & Use	
File No.	04C-028
WDID	9 000001242
Reg. Measure ID	373449
Place ID	225207
Party ID	19646
Person ID	69880

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee X</p> <p>B. Received by (<i>Printed Name</i>) C. Date of Delivery</p>
<p>1. Article Addressed to:</p> <p style="text-align: center;"><i>Allen Jones H.G. Fenton Company 7588 Metropolitan Dr San Diego, CA 92108</i></p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p> <p>3. Service Type <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> C.O.D.</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Insured Mail</p> <p>4. Restricted Delivery? (<i>Extra Fee</i>) <input type="checkbox"/> Yes</p>
<p>2. Article Number 7008 1140 0002 4060 7194 (Transfer from s)</p>	

PS Form 3811, February 2004

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102595-02-M-1540

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<p>Sent To: <i>Allen Jones, H.G. Fenton Company</i></p> <p>Street, Apt. No., or PO Box No.: <i>7588 Metropolitan Dr</i></p> <p>City, State, ZIP+4: <i>San Diego CA 92108</i></p>	
PS Form 3800, August 2006	See Reverse for Instructions